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**THE SAN FRANCISCO BAR PILOTS  
BENEVOLENT AND PROTECTIVE  
ASSOCIATION and the SAN FRANCISCO BAR  
PILOTS****FILED**

JAN 26 2006

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAUNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAIn the Matter of the Complaint of THE )  
SAN FRANCISCO BAR PILOTS )  
BENEVOLENT AND PROTECTIVE )  
ASSOCIATION and the SAN )  
FRANCISCO BAR PILOTS, as Owners )  
and/or Charterers, of the *P/V GOLDEN* )  
*GATE*, Limitation Petitioners, for )  
Exoneration from or Limitation of )  
Liability. )

Case No.: C 05-2975 MJJ

**STIPULATION AND  
~~PROPOSED~~ ORDER  
PRESERVING THE  
PETITIONERS' LIMITATION  
RIGHTS, LIFTING THE STAY  
AGAINST STATE COURT  
LITIGATION AND STAYING  
THE LIMITATION ACTION**

WHEREAS, Petitioners The San Francisco Bar Pilots Benevolent and Protective Association and the San Francisco Bar Pilots as Owners and/or Charterers of the *P/V Golden Gate*, have prayed for limitation and/or exoneration under the Vessel Owners' Limitation of Liability Act [the "Act"], 46 U.S. C. §§ 183 *et seq.*, in connection with the incident involving the alleged collision between the *P/V Golden Gate* and the *F/V Ronnie B* that occurred on or about January 17, 2005;

AND WHEREAS Claimants Igor Kwasniza and Alexander Newcomb are the sole claimants herein and wish to prosecute their claims against the petitioners in a single state court action which has not yet been filed;

IT IS HEREBY STIPULATED AND AGREED, by the undersigned Petitioners and Claimants, by and through their respective attorneys, that:

(1) The Petitioners have the right to litigate the issue of whether they are entitled

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MOAC:RonnieB

1 to limitation of liability under the Act and this Court has exclusive jurisdiction to determine  
2 said issues, including, among other things, the issue of the proper value of the limitation  
3 fund. The Petitioners submit that they are entitled to litigate the issue of exoneration from  
4 liability in this Court. The Claimants do not agree upon Petitioners' right to a trial of the  
5 issue of exoneration from liability in this Court following a state court trial. The parties  
6 stipulate that this issue shall be determined by this Court prior to the trial of limitation  
7 issues;

8 (2) Claimants will not seek a determination of the issues set forth in paragraph  
9 (1) above in any proceeding other than this case, and consent to waive any *res judicata*  
10 effect the decisions, rulings or judgments of any other forum might have on those issues,  
11 and further consent to waive the defense of issue preclusion with respect to all matters  
12 reserved for determination by this Court;

13 (3) Claimants will not seek to enforce any judgment rendered in any judicial  
14 forum, whether against Petitioners or another person or entity entitled to seek indemnity or  
15 contribution from Petitioners by way of cross-claim or otherwise that would expose  
16 Petitioners to liability in excess of the limitation fund until such time as this Court has  
17 adjudicated Petitioners' right to limit that liability;

18 (4) In the event that this Court determines that Petitioners are entitled to limit  
19 their liability, Claimants will not seek to enforce any judgment which would require  
20 Petitioners to pay damages in excess of the limitation fund; and,

21 (5) In the event this Court determines that Petitioners are entitled to limit their  
22 liability, any claim based upon fees and/or costs awarded against Petitioners in favor of  
23 Claimants will have first priority against the limitation fund.

24 (6) The Claimants will file suit against Petitioners in state court in a single  
25 action.

26 IT IS SO STIPULATED.

27 ///

28 ///

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1 Dated: January 24, 2006

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BAR PILOTS

6 By /S/  
Terence S. Cox

8 Dated: January 24, 2006

LAW OFFICES OF LYLE C. CAVIN  
Attorneys for Claimants IGOR KWASNIZA  
and ALEXANDER NEWCOMB

12 By /S/  
Ronald H. Klein

13 **ORDER**

14 THE PARTIES HAVING AGREED THERETO, AND GOOD CAUSE  
15 APPEARING THEREFOR, IT IS HEARBY ORDERED that the Monition issued by this  
16 Court on August 11, 2005 be modified so that:

- 17 (1) The injunction against State court litigation be and hereby is lifted so that the  
18 Claimants may file a single action in State Court in order to litigate their  
19 personal injury claims;  
20 (2) The within action be and hereby is stayed until such time as the action to be  
21 filed in State court is either tried to final judgement, or otherwise resolved.

23 Dated: 1/26, 2006

24 By: [Signature]  
The Honorable Martin J. Jenkins  
United States District Judge

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